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Sent: Friday, October 28, 2011 5:11 PM
To: Hanchett, James (DPH)
Subject: Commonwealth Contract Update

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Commonwealth Contract Update

October 28, 2011

Dear MOSES Members:

As Co-Chairs of the MOSES Commonwealth Collective Bargaining Committee we want to update you on what is currently happening. By now you have likely heard that Commonwealth of Massachusetts bargaining Units: 1, 3 and 6 (represented by NAGE); 2 (represented by AFSCME); 8 and 10 (represented by SEIU); and 4A (represented by NEBPA) have all entered into new contracts with the Commonwealth.*

MOSES Commonwealth Bargaining Unit 9 has been offered the same contract "deal." This contract provides, basically, for the following economics:

- No retroactivity for the 6/30/11 increase (currently pending per the existing contract);
- No 1/1/12 start date for the 6/30/12 increase (currently pending per the existing contract)
- The 6/30/12 increase remains the same
- On 7/1/12 there would be an across-the-board (ATB) increase of 1.5%
- On 1/1/13 there would be an ATB of 1.5%
- On 6/30/13 there would be an ATB of 1.5%.
- On 1/1/14 there would be an ATB of 1.5%
- Suffolk County holidays are eliminated
 - i. Existing employees would get 2 additional personal days
 - ii. New employees would not

Additionally, there would be increases to Health and Welfare contributions; a Re-opener (if another Executive Branch bargaining unit got a better ATB the Union could request further bargaining on salary); and an Efficiency Working Group (an enhanced labor/management committee).

We, MOSES Commonwealth Collective Bargaining Committee has been caucusing amongst ourselves and meeting with management regarding this proposal since July. We have tried to motivate the Commonwealth into changing this proposal in a myriad number of ways that would better protect all members and guarantee that a new contract would not jeopardize the existing wage increase scheduled for 6/30/12. Every suggestion and permutation that the MOSES Committee put forth was rejected.

To date the Committee has not decided whether to bring this contract to you for your consideration. This is because we have a number of concerns. One of those is whether a new contract would be funded by the legislature. Under Article 31 of the contract, Section 7 of the M.G.L.c.150E and the Commonwealth's Constitution, appropriations to fund the cost items (raises, etc.) of a contract must be enacted by the legislature. This is accomplished by the Employer, the Commonwealth, making a request to the legislature. If the legislature rejects that request the contract is still in effect except for the cost items. The Committee's concern in this regard stems from the fact that in 2008 MOSES had a contract that the legislature neither accepted nor rejected. This was in the midst of the worst economic crisis in the country's history and the Commonwealth capitalized on the unfunded contract by renegotiating. MOSES got funding but the Commonwealth got furloughs.

The Committee is also worried that if MOSES accepts the current offer, the legislature may reject funding. Thus, none of the cost items would be in effect; not the 3% on 6/30/12 nor the 1.5, 1.5, 1.5, 1.5 in 2012, 2013 and 2014.

Further, the fact that in October of 2010 the Massachusetts Supreme Judicial Court (SJC) decided that "Evergreen" clauses were unlawful under Massachusetts Collective bargaining law chapter 150E has been troubling to the Committee with regard to having the current contract expire. Evergreen clauses, as found in Article 30 of our current Collective Bargaining Agreement (cba), act to keep a contract alive after its expiration date. Under the SJC ruling once a contract expires there is no longer a grievance and arbitration process in place and as long as notice and an opportunity to bargain are provided, the terms of an expired contract may be changed.

Additionally bothersome to the committee is the impact, however minor it may be, to those who are planning on retiring on or before 7/1/12.

The Committee is meeting again next week. We will keep you informed.

Tom Natario and Alex Smigliani
Co-Chairmen of the Commonwealth Collective Bargaining Committee

"In addition the Essex Sheriff and IBCO Local RI-71 as well as the Plymouth Sheriff and MCOFU BCI have agreed to the same deal.

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